

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

SHELLY ISAAC, ALEXANDER
ZAMUDIO and STEVE OBERLY,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

BLENDTEC, INC.,

Defendant.

Case No. 1:22-cv-11254

JOINT MOTION TO EXTEND PRETRIAL SCHEDULE

Plaintiffs Shelly Isaac, Alexander Zamudio, and Steve Oberly (“Plaintiffs”) and Defendant Blendtec, Inc. (“Blendtec”), by and through their respective counsel, jointly move this Court to extend the current pretrial deadlines in this matter. This joint motion for an extension of the pretrial schedule is requested so the parties may complete ongoing settlement negotiations to see if they are able to reach a settlement. The support for this motion is set forth in the memorandum that follows.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiffs filed their Complaint against Blendtec on August 4, 2022. (ECF No. 1.) Plaintiffs’ Complaint alleges ten causes of action, including violations of state consumer protection statutes, negligence, unjust enrichment, breach of contract, and breaches of express and implied warranties. Defendant filed its Answer on October 17, 2022. (ECF No. 23.) On October 18, 2022, the Court entered a pretrial scheduling order (ECF No. 24).

ARGUMENT

Good cause exists to extend the current pretrial schedule in light of ongoing settlement negotiations between the parties. The parties first began discussing settlement in earnest in October 2022. Since that time, the parties have had numerous substantive settlement discussions in order to determine whether early resolution of this matter is possible. The parties have exchanged requests for discovery pursuant to Fed. R. Evid. 408 in order to better evaluate a settlement, and Blendtec has provided Plaintiffs with discovery in support of its position. The parties continue to work towards a resolution of this action and have actively discussed the possibility of a nationwide settlement, including discussions regarding the structure and other aspects of a settlement. To that end, the parties have agreed to engage in mediation on April 14, 2023 with Jill Sperber, an experienced neutral with Judicate West, in hopes of reaching a full resolution of the matter.

Despite making substantial progress toward settlement, the parties have continued to litigate this matter. The parties exchanged their initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) on November 9, 2022. In early 2023, Plaintiffs served Defendant with discovery requests, including interrogatories and requests for production of documents. Defendants have served objections and answers to Plaintiffs' discovery requests, in addition to producing responsive documents. Plaintiffs have also served Defendant with notices of intent to serve third-party subpoenas.

The parties are optimistic that, given the significant progress made prior to mediation, their ongoing settlement negotiations will be fruitful in the upcoming weeks in potentially resolving this action. Given the impending discovery and class certification deadlines, the parties will be preparing for and engaging in mediation during the time when they would otherwise be serving and responding to additional discovery, taking depositions, and preparing experts in order to file

and oppose a motion for class certification. A potential nationwide resolution would dispose of this action without burdening the Court or wasting judicial resources. The parties believe an extension of the current pretrial deadlines will serve the interest of judicial economy by allowing the parties additional time to complete their settlement negotiations. Neither party has previously requested an extension of the scheduling order.

WHEREFORE, for good cause shown, the parties respectfully request that this Court grant this motion and enter an Order extending the current pretrial schedule as follows:

Completion of Fact Discovery	August 25, 2023
Deadline to File Plaintiffs' Motion for Class Certification	September 29, 2023
Deadline to File Opposition to Plaintiffs' Motion for Class Certification	October 30, 2023
Plaintiffs' Expert Disclosures	November 10, 2023
Defendant's Expert Disclosures	December 10, 2023
Completion of Expert Discovery	January 12, 2024
Deadline to File Dispositive Motions	January 30, 2024
Deadline to File Opposition to Dispositive Motions	February 20, 2024

Respectfully submitted,

Dated: March 14, 2023

MILBERG COLEMAN BRYSON PHILLIPS

By: /s/ Erin J. Ruben

Erin J. Ruben (*admitted pro hac vice*)

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Dated: March 14, 2023

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**Pro hac vice application forthcoming*

CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 7.1

I hereby certify pursuant to Local Rule 7.1(a)(2) that I conferred with Justin Toth, counsel for Defendant, via email, regarding this motion, and the parties agreed to seek the relief requested jointly.

/s/ Erin J. Ruben

Erin J. Ruben

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

Pursuant to Local Rule 5.4(c), I hereby certify that on this 14th day of March, 2023, I caused a true and correct copy of the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record by electronic means.

/s/ Erin J. Ruben

Erin J. Ruben

Attorney for Plaintiffs